

**FCC Wireless Telecommunications Bureau**  
**Application or Notification for Spectrum Leasing Arrangement**

**Type and Purpose of Filing**

Select one of the following from questions 1-3:

1) ☐ Is this filing for a Spectrum Manager Lease?2) ☒ Is this filing for a *De Facto* Transfer Lease?3) ☐ Is this filing for an Amendment or Withdrawal of a pending Application/Notification?

Select one of the following from questions 4-8:

4) ☒ Is this filing for a new Lease?5) ☐ Is this filing for a new Sublease?6) ☐ Is this filing for a revision of an existing Lease/Sublease?7) ☐ Is this filing for an assignment of a Lease/Sublease?8) ☐ Is this filing for a transfer of control of the Lessee/Sublessee?**General Information**

9) If this request is for an Amendment or Withdrawal, enter the File Number of the pending Application/Notification currently on file with the FCC.

File Number: 

10) If this Application/Notification is part of a series of Applications/Notifications involving the Lease or Sublease of other spectrum held by the Licensee, affiliates of the Licensee (e.g., parents, subsidiaries, or commonly-controlled entities), or third parties that are not included on this form and for which Commission approval or notification is required; enter the File Number of the lead Application/Notification.

File Number: 

If this Application/Notification is part of a series of Applications/Notifications, provide a list of the Applications/Notifications in an exhibit to the lead Application/Notification.

11) Are attachments being filed with this Application/Notification?

☒ Yes ☐ No

### Fees and Waivers

12a) Is the applicant exempt from FCC application fees?	( <u>Y</u> ) Yes <u>No</u>
12b) Is a waiver/deferral of the FCC application fees being requested?	( <u>N</u> ) Yes <u>No</u>
If 'Y', attach to this filing a date-stamped copy of the request for waiver/deferral.	
13a) Does this filing include a request for waiver of the Commission's rules (other than requests for fee waivers?)	( <u>N</u> ) Yes <u>No</u>
If 'Y', attach an exhibit specifying the rule section(s) for which a waiver is being requested and including a justification for the waiver request.	
13b) If the answer to 13a is 'Y', enter the number of rule sections involved: _____	

### Bidding Credits, Installment Payment Plans, or Closed Bidding

14a) Does this Application/Notification involve the Lease/Sublease of spectrum associated with any licenses that were originally awarded with bidding credits within the last five years? (If response is 'Y' complete the applicable questions on Schedule A.)	( <u>N</u> ) Yes <u>No</u>
14b) Does this Application/Notification involve the Lease/Sublease of spectrum associated with any licenses that were originally awarded subject to the Commission's installment payment program? (If response is 'Y', complete the applicable questions on Schedule A.)	( <u>N</u> ) Yes <u>No</u>
14c) Does this Application/Notification involve the Lease/Sublease of spectrum associated with any licenses that were granted pursuant to closed bidding within the last five years? (If response is 'Y', complete the applicable questions on Schedule A.)	( <u>N</u> ) Yes <u>No</u>

### Ownership Disclosure Information

#### 15) FCC Form 602, Ownership Disclosure Form (Select One)

( ☒ ) Lessee/Sublessee has a current FCC Form 602 on file with the Commission.

FRN under which the FCC Form 602 was filed: 0010490498

Name under which the FCC Form 602 was filed:

Fixed Wireless Holdings, LLC

Date the FCC Form 602 was filed: 03 / 22 / 2005 (MM/DD/YYYY)

( ☐ ) Lessee/Sublessee is filing a new or updated FCC Form 602 concurrently with this Application/Notification.

FRN under which the FCC Form 602 will be filed: \_\_\_\_\_

Name under which the FCC Form 602 will be filed:

\_\_\_\_\_

( ☐ ) Lessee/Sublessee is not required to file a FCC Form 602.

**Licensee Information**

16) Licensee is a(n): <input checked="" type="checkbox"/> Individual Corporation <input type="checkbox"/> Unincorporated Association <input type="checkbox"/> Trust Partnership <input type="checkbox"/> Government Entity Consortium <input type="checkbox"/> Joint Venture Consortium				
17) FCC Registration Number (FRN): 0011587664				
18) First Name (if individual):		MI:	Last Name:	
19) Entity Name (if not an individual): Heritage Christian Academy				
20) Attention To: Mrs. Melisse S. Kager, Principal				
21) P.O. Box:		And /Or	22) Street Address:	
			4325 Highway 17 South	
23) City:		24) State:		25) Zip Code:
Orange Park		FL		32003-7899
26) Telephone Number: (904) 343-1561			27) FAX Number: (904) 264-9791	
28) E-Mail Address: mskager@prodigy.net				

**29) Race, Ethnicity, and Gender of Licensee (Optional):**

<b>Race:</b>	<input type="checkbox"/> American Indian or Alaska Native	<input type="checkbox"/> Asian	<input type="checkbox"/> Black or African American
	<input type="checkbox"/> Native Hawaiian or Other Pacific Islander	<input type="checkbox"/> White	
<b>Ethnicity:</b>	<input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latin		
<b>Gender:</b>	<input type="checkbox"/> Female <input type="checkbox"/> Male		

**Name of Licensee Contact Representative (if other than Licensee)**

30) First Name: John		MI: P.	Last Name: Howard		Suffix: Esq.
31) Company Name:					
32) P.O. Box: P. O. Box 7189		And /Or	33) Street Address:		
34) City: Jacksonville		35) State: FL		36) Zip Code: 32238-0189	
37) Telephone Number: (904) 779-6636			38) FAX Number: (904) 778-6827		
39) E-Mail Address:					

**Lessee Information**

40) Lessee is a(n): <input checked="" type="checkbox"/> Individual Corporation <input type="checkbox"/> Unincorporated Association <input type="checkbox"/> Trust Partnership <input type="checkbox"/> Government Entity Consortium <input type="checkbox"/> Joint Venture Limited Liability Corporation			
41) FCC Registration Number (FRN): 0010490498			
42) First Name (if individual):		MI: <input type="checkbox"/>	Last Name: <input type="checkbox"/> Suffix: <input type="checkbox"/>
43) Entity Name (if other than individual): Fixed Wireless Holdings, LLC			
44) Attention To: Nadja Sodos-Wallace			
45) P.O. Box:		And /Or	46) Street Address: 2000 Pennsylvania Avenue, NW, Suite 4400
47) City: Washington		48) State: DC	49) Zip Code: 20006
50) Telephone Number: (202) 330-4011		51) FAX Number: (202) 330-4008	
52) E-Mail Address: nadja.sodoswallace@clearwire.com			

**Name of Lessee Contact Representative (if other than Lessee)**

53) First Name: Nadja		MI: <input checked="" type="checkbox"/> S.	Last Name: Sodos-Wallace	Suffix: <input type="checkbox"/>
54) Company Name: Clearwire Corporation				
55) P.O. Box:		And /Or	56) Street Address: 2000 Pennsylvania Avenue, NW, Suite 4400	
57) City: Washington		58) State: DC	59) Zip Code: 20006	
60) Telephone Number: (202) 330-4011		61) FAX Number: (202) 330-4008		
62) E-Mail Address: nadja.sodoswallace@clearwire.com				

### Alien Ownership Questions

- 132) Is the Lessee/Sublessee a foreign government or the representative of any foreign government? ☒ Yes ☐ No
- 133) Is the Lessee/Sublessee an alien or the representative of an alien? ☒ Yes ☐ No
- 134) Is the Lessee/Sublessee a corporation organized under the laws of a foreign government? ☒ Yes ☐ No
- 135) Is the Lessee/Sublessee a corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country? ☒ Yes ☐ No
- 136) Is the Lessee/Sublessee directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country? ☒ Yes ☐ No
- If 'Y', attach an exhibit explaining the nature and extent of alien or foreign ownership.
- 137) If the answer to 136 is 'Y', has the Lessee/Sublessee received a ruling(s) under Section 310(b)(4) of the Communications Act with respect to the same radio service(s) as the services(s) involved in this Application/Notification? ☐ Yes ☐ No
- If 'Y', provide in an exhibit the citation(s) of the declaratory ruling(s) received by the Lessee/Sublessee (i.e., DA or FCC Number, FCC Record citation when available, and release date).
- If 'N', attach to this filing a date-stamped copy of a request for a foreign ownership ruling pursuant to Section 310(b)(4) of the Communications Act.

### Basic Qualification Questions

- 138) Has the Lessee/Sublessee/Transferee or any party to this Application/Notification had any FCC station authorization, license, Lease, Sublease, or construction permit revoked or had any Application/Notification for an initial modification or renewal of FCC station authorization, license, Lease, Sublease, or construction permit denied by the Commission? ☒ Yes ☐ No
- 139) Has the Lessee/Sublessee/Transferee or any party to directly or indirectly controlling the Lessee/Sublessee/Transferee ever been convicted of a felony by any state or federal court? ☒ Yes ☐ No
- If 'Y', attach an exhibit explaining the circumstances.
- 140) Has any court finally adjudged the Lessee/Sublessee/Transferee or any party directly or indirectly controlling the Lessee/Sublessee/Transferee guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement, or any other means or unfair methods of competition? ☒ Yes ☐ No
- If 'Y', attach an exhibit explaining the circumstances.
- 141) Is the Lessee/Sublessee/Transferee or any party directly or indirectly controlling the Lessee/Sublessee/Transferee currently a party in any pending matter referred to in the preceding two items? ☒ Yes ☐ No
- If 'Y', attach an exhibit explaining the circumstances.

**The following is to be completed in all Applications/Notifications relating to Leasing**

**Licensee Certification Statements**

1) The Licensee agrees that the Lease/Sublease is not an assignment, sale, or transfer of the license itself.

2) The Licensee certifies that it will not consent to assignment of the Lease except to the extent such assignment complies with the Commission's rules and regulations.

The Licensee certifies that all of its statements made in this Application/Notification and in the schedules, exhibits, attachments, or documents incorporated by reference are material, are part of this Application/Notification, and are true, complete, correct, and made in good faith.

**Type or Printed Name of Party Authorized to Sign:**

142) First Name:	Mrs. Melisse	MI:	S.	Last Name:	Kager	Suffix:	
143) Title:	Principal, Heritage Christian Academy						
Signature:	<i>Melisse S. Kager, President</i>				144) Date:	<i>4/15/05</i>	
<b>WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).</b>							

**Lessee/Sublessee Certification Statements**

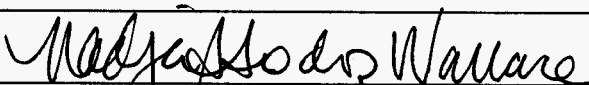
1)	The Lessee/Sublessee agrees that the Lease/Sublease is not an assignment, sale, or transfer of the license itself.
2)	The Lessee/Sublessee acknowledges that it is required to comply with the Commission's rules and regulations and other applicable law at all times, and if the Lessee/Sublessee fails to so comply, the Lease/Sublease may be revoked, cancelled, or terminated by either the licensee or the Commission.
3)	The Lessee/Sublessee certifies that neither it nor any other party to the Application/Notification is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance. (See Section 1.2002(b) of the rules, 47 CFR § 1.2002(b), for the definition of "party to the application" as used in this certification.)
4)	The Lessee/Sublessee hereby accepts Commission oversight and enforcement consistent with the license authorization. The Lessee/Sublessee acknowledges that it must cooperate fully with any investigation or inquiry conducted either by the Commission or the Licensee, allow the Commission or the licensee to conduct on-site inspections of transmission facilities, and suspend operations at the direction of the Commission or the Licensee and to the extent that such suspension of operation would be consistent with the applicable Commission policies.
5)	The Lessee/Sublessee acknowledges that in the event an authorization held by a licensee that has entered into a spectrum leasing arrangement is revoked, cancelled, terminated, or otherwise ceases to be in effect, the Lessee/Sublessee will have no continuing authority to use the leased spectrum and will be required to terminate its operations no later than the date on which the Licensee ceases to have any authority to operate under the license, unless otherwise authorized by the Commission.
6)	The Lessee/Sublessee agrees the Lease/Sublease shall not be assigned to any entity that is not eligible or qualified to enter into a spectrum leasing arrangement under the Commission's rules and regulations.
7)	The Lessee/Sublessee waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by spectrum lease or otherwise.
8)	If the Lease/Sublease involves spectrum in the Cellular Radiotelephone Service in Rural Statistical Areas (RSAs), the Lessee/Sublessee certifies that it does not hold more than 5 percent ownership interest in the other cellular license(s) within the same RSA.
The Lessee/Sublessee certifies that all of its statements made in this Application/Notification and in the schedules, exhibits, attachments, or documents incorporated by reference are material, are part of this Application/Notification, and are true, complete, correct, and made in good faith.	

**Lessee**

\* For a Lease Application/Notification, the Lessee must certify to statements 1-8.

\* For a Sublease Application/Notification, the Lessee must certify to statements 1, 6, and 8 only.

**Type or Printed Name of Party Authorized to Sign:**

145) First Name:	Nadja	MI:	S	Last Name:	Sodos-Wallace	Suffix:	
146) Title:	Regulatory Counsel, Assistant Secretary						
Signature:					147) Date:	4/18/05	
WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).							

**Sublessee**

\* For a Sublease Application/Notification, the Sublessee must certify to statements 1-8.

**Type or Printed Name of Party Authorized to Sign:**

148) First Name:		MI:		Last Name:		Suffix:	
149) Title:							
Signature:					150) Date:		
WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).							

**License Authorization(s) Associated with the Spectrum To Be Included in the Lease/Sublease**

[illegible]

\* Questions 159 – 162 are for Leases/Subleases involving spectrum associated with site-based authorizations.

**FCC 603-T – Main Form  
February 2004 – Page 13**



**Schedule for New Lease**

1) Call Sign: WLX 998 (Complete separate schedule for each Call Sign)

**Type of Lease**

2a) If a Spectrum Manager Lease, is the Lease term for more than one year or one year or less?

☐ More than one year ☐ One year or less

2b) If a *De Facto* Transfer Lease, is the Lease Long-Term or Short-Term (no longer than 180 days, renewable up to 360 days)?

☒ Long-Term ☐ Short-Term

2c) If a Long-Term *De Facto* Transfer Lease, is this a 'conversion' of a Short-Term *De Facto* Transfer Lease to a Long-Term *De Facto* Transfer Lease?

☒ Yes ☐ No

2d) If the answer to Item 2c is 'N', have the Licensee and Lessee entered into any Short-Term *De Facto* Transfer Lease(s) with regard to any spectrum covered by the License or within the same geographic area?

☒ Yes ☐ No

**Term of Lease**

3a) Provide the date the Lease is due to commence:      /      /      (MM/DD/YYYY) **See Attached Exhibit**

3b) Provide the date the Lease is due to expire:      /      /      (MM/DD/YYYY) **See Attached Exhibit**

**Spectrum Leased (For Geographically-Licensed Services)**

4) If the Lease encompasses only a portion of the licensed spectrum or licensed geographic area, check here ☐ and complete Schedule F and, if applicable, Schedule G.

**CMRS Spectrum**

5a) If this is a Spectrum Manager or Long-Term *De Facto* Transfer Lease, does the Lease involve Cellular Radiotelephone, broadband PCS, or Specialized Mobile Radio (SMR) spectrum (referred to for purposes of this question as CMRS spectrum)?

☒ Yes ☐ No

If the answer to Item 5a is 'Y', complete the following two questions.

5b) Does the Lessee hold direct or indirect interests (of 10 percent or more) in any entity that already has access to 10 MHz or more of CMRS spectrum (through License(s), Lease(s), or Sublease(s)) in the same geographic area?

☒ Yes ☐ No

5c) Does the Lease reduce the number of entities providing CMRS in the affected market(s)?

☒ Yes ☐ No

**Regulatory Status**

6a) The Lessee will provide radio offerings on the following basis (enter all that apply):

☐ Common Carrier ☒ Non-common Carrier ☐ Private, internal communications ☐ Broadcast Services

6b) Does the regulatory status indicated in response to Item 6a differ from the regulatory status authorized with regard to the Licensee?

☒ Yes ☐ No

7a) The Lessee will provide the following type(s) of radio service (enter all that apply):

☒ Fixed ☐ Mobile ☐ Radiolocation ☐ Satellite (sound) ☐ Broadcast services

7b) Does the type(s) of radio service indicated in response to Item 7a differ from the type(s) of radio service authorized to be provided by the Licensee?

☒ Yes ☐ No

8a) Does the Lessee propose to provide interconnected service?

☒ Yes ☐ No

8b) Does the response to Item 8a differ from whether the Licensee provides interconnected service?

☒ Yes ☐ No

**Description of Transaction and Public Interest Statement**

As set forth in the foregoing FCC Form 603-T, Heritage Christian Academy (“Lessor”) and Fixed Wireless Holdings, LLC (“Lessee”) (collectively the “Parties”) on April 15, 2005, executed an EBS Excess Capacity Use and Royalty Agreement (“Agreement”) for the use of Educational Broadband Service (“EBS”) Station WLX998. While the Agreement is effective as of the execution date indicated above, it requires that the Commission consent to the long term lease of the spectrum pursuant to that Agreement and the effective date of the new rules permitting long term *de facto* leasing.<sup>1</sup>

Approval of the long term *de facto* transfer leasing arrangement provided for in the Agreement is in the public interest because it will provide Lessee with access to spectrum to build and operate a broadband system in and around Gainesville under the rules and policies governing long term *de facto* transfer leases and assist Lessee with providing educational service and meeting its educational service requirements. As the Commission has set forth, the *de facto* leasing model “...better accommodates recent evolutionary developments in the Commission’s spectrum policies, technological advances, and market place trends, consistent with statutory requirements.”<sup>2</sup>

Consistent with the Agreement and the requirements of the Commission’s Rules, Lessee, whose qualifications are a matter of Commission record,<sup>3</sup> will have *de facto* control of the leased spectrum throughout the lease term and Lessor will retain *de jure* control over the leased spectrum. Lessee is financially, technically and legally qualified to be a Commission lessee and will at all times conduct operations under the Agreement subject to applicable rules and regulations. The Agreement raises no foreign ownership, competitive or other public interest concerns. Lessee certifies, pursuant to Section 27.1202 of the Commission’s Rules, that is not directly or indirectly or affiliated with nor does it have any leasing arrangements with a cable television company. Lessee certifies that it will comply with the technical requirements and interference protection requirements contained in Sections 27.50, 27.55 and 27.1221 of the Commission’s Rules.

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<sup>1</sup> See Report and Order and Further Notice of Proposed Rulemaking Regarding Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, WT Docket No. 03-66, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165, 14233 (2004) (“Report and Order”). The Report and Order was published in the Federal Register on December 9, 2004 and therefore the secondary market rules for EBS spectrum are effective on January 10, 2005.

<sup>2</sup> See Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 20604 (2003).

<sup>3</sup> Lessee holds over 100 Broadband Radio Service, Commercial Educational Broadband Service and other wireless licenses.

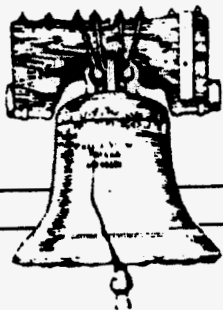
Pursuant to the Report and Order, the Agreement includes all of the EBS substantive use requirements: (i) the spectrum will be used for educational purposes; (ii) the Lessor retains the right to ready recapture of spectrum for educational purposes when used in analog mode and a 5 % (five percent) reservation of transmission capacity for educational purposes when used in digital mode; (iii) the lease term does not exceed the term of the license; (iv) the EBS licensee retains responsibility for compliance with FCC rules regarding station construction and operation; (v) only the EBS licensee can file applications for modification and (vi) the EBS licensee retains the right to acquire the EBS transmission equipment, or comparable equipment, upon termination of the lease agreement.<sup>4</sup> Accordingly, the long term *de facto* transfer leasing arrangement proposed herein is consistent with the public interest, convenience and necessity.

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<sup>4</sup> Report and Order, paragraph 181.

**Response to Schedule B, Questions 3(a) and 3(b)**

The term of the lease for EBS Station WLX998 will commence upon the date on which the FCC's grant of the lease application becomes a Final Order ("Lease Commencement Date"). The lease will not extend beyond: (i) the date such authorization expires by its terms; (ii) the date such application for renewal is dismissed or denied with prejudice by the FCC; or (iii) the expiration of the term of the termination of the Agreement pursuant to the early termination provisions of the Agreement ("Lease Termination Date"). The parties will notify the FCC of the actual Lease Commencement Date and Lease Termination Date once they are determined. The lease is renewable for a term to expire on December 6, 2013, in accordance with applicable FCC rules.



# HERITAGE

## Baptist Church & Christian Academy

4325 Highway 17 South

Orange Park, Florida 32073

(904) 269-2405

Mrs. Melisse Kager, Administrator

*March 15, 2005*

Federal Communications Commission  
Wireless Telecommunications Bureau  
Broadband Division  
1270 Fairfield Road  
Gettysburg, PA 17325-7246

Re: Heritage Christian Academy  
FRN 0011587664  
EBS Station WLX 998  
Gainesville, Florida  
FCC Form 603-T  
Certification as to Section 27.1203

**To Whom It May Concern:**

In association with an FCC Form 603-T, Application for Notification for Spectrum Leasing Arrangement, whereby the Heritage Christian Academy, licensee of EBS Station WLX 998, Gainesville, Florida ("Licensee") proposes to lease its excess capacity to Fixed Wireless Holdings, LLC, Licensee hereby certifies that it intends to maintain compliance with Section 27.1203 (b) and (c) of the Commission's Rules and to provide "video, data or voice transmissions to further the educational mission" of Licensee.

Sincerely,

*Mrs. Melisse S. Kager*

Mrs. Melisse S. Kager  
Principal